

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 24524,
24525, and 24526 to Appropriate
from an Unnamed Stream and the
Navarro River,

JAMES C. AND JOSEPHINE N. GOWAN,

Applicants,

B. R. MILLS AND CALIFORNIA
DEPARTMENT OF FISH AND GAME,

Protestants

Decision: 1512

Sources: Unnamed Stream and
Navarro River

County: Mendocino

DECISION APPROVING APPLICATIONS

BY THE BOARD:

James C. and Josephine N. Gowan having filed Applications 24524, 24525, and 24526 for permits to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulations; the Board having considered all available information finds as follows:

Substance of the Applications

1. Application 24524 is for a permit to appropriate (1) 0.44 cubic foot per second (cfs) by direct diversion from April 1 to November 1 for irrigation purposes, (2) 0.44 cfs from March 15 to June 1 for frost protection, and (3) 1.0 acre-foot per annum by storage from February 1 to July 1. Diversion is from an unnamed stream in Mendocino County at a point within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 12, T14N, R15W, MDB&M.

2. Application 24525 is for a permit to appropriate 0.53 cfs from May 1 to November 1 for irrigation purposes from Navarro River in Mendocino County. The point of diversion is within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11, T14N, R15W, MDB&M.

3. Application 24526 is for a permit to appropriate 9.0 cfs from April 1 to June 1 for frost protection from Navarro River in Mendocino County. The point of diversion is identical to that under Application 24525.

Applicants' Projects

4. Under Application 24524, the applicants collect water in a 1.0 acre-foot reservoir formed by a concrete dam about 10 feet high until they are ready to use it. It is then released through a pipe to a pump which boosts it to a 3.5-acre peach orchard. A few days later the reservoir is full again and the process is repeated. The dam was built about 1938 and water has been used continuously since that time.

5. At the point of diversion under Applications 24525 and 24526, the applicants have two pumps with a combined capacity of 800 gallons per minute (gpm). Water has been pumped from the unobstructed channel of Navarro River since 1954 to irrigate 93.5 acres of orchard. Except for increasing the capacity of the pumps for frost protection, the applicants plan no modification of their current method of operation.

Protests

6. All three applications were protested by the Department of Fish and Game, and Application 24524 was protested by B. R. Mills. After observing the project under Application 24524, Fish and Game withdrew its protest.

7. B. R. Mills protested Application 24524 on the basis of claimed riparian and prescriptive rights. He claims to have used water since about 1948 for domestic use at one house and for irrigation of a garden. At the time of the investigation the house was rented and no water was being used.

8. Fish and Game's protests against Applications 24525 and 24526 are based on its findings that the Navarro River supports important runs of silver salmon and steelhead. Fish and Game proposed permit terms to satisfy its protest which, in addition to standard permit terms, would require bypass of a minimum of 20 cfs from April 1 through May 30 and 8.0 cfs from June 1 through November 1.

Availability of Unappropriated Water

9. The field investigation determined that the source stream under Application 24524 increases in flow between Applicants' dam and protestants' point of diversion. The stream produces sufficient water to supply both applicant and protestant.

10. Based on the records of the U. S. Geological Survey gaging station "Navarro River near Navarro, California", about six miles downstream from Gowans' diversion, it appears that there would generally be sufficient flow to satisfy Gowans and the flows requested by Fish and Game.

Environmental Considerations

11. The State Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) and the State Guidelines, and the Board determines that there will be no significant effect on the environment as a result of the project.

Other Considerations

12. The records, documents, and other data relied upon in determining the matter are: Files of Applications 24524, 24525, 24526, and 25007 and all relevant information on file therewith, particularly the Engineering Staff Analysis of Record dated March 10, 1978.

Conclusions

From the foregoing findings, the Board concludes that unappropriated water is available to supply the applicants, that no injury will result to the protestants and that the terms proposed by Fish and Game are necessary to protect the valuable fishery of the Navarro River.

ORDER

IT IS HEREBY ORDERED that Applications 24524, 24525, and 24526 be approved and that permits be issued to the applicants subject to vested rights. The permits shall contain all applicable standard permit terms (5a, 5g, 6, 9, 10, 11, 12 and 13)* in addition to the following conditions:

Application 24524

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (A) by direct diversion: (1) 0.44 cubic foot per second from April 1 to November 1 of each year for irrigation purposes, (2) 0.44 cubic foot per second from March 15 to June 1 for frost protection purposes; and (B) by storage, one acre-foot per annum to be collected from February 1 to July 1 of each year.

The total amount of water to be taken from the source for all uses shall not exceed 10 acre-feet per water year of October 1 to September 30.

* The Board maintains a list of standard permit terms. Copies of these are available upon request.

Application 24525

2. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.53 cubic foot per second to be diverted from May 1 to November 1 of each year. The maximum amount diverted under this permit shall not exceed 190 acre-feet per year.

Application 24526

3. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed nine cubic feet per second to be diverted from April 1 to June 1 of each year. The maximum amount diverted under this permit shall not exceed 120 acre-feet per year.

Applications 24524 and 24526

4. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

Applications 24525 and 24526

5. For the protection of fish and wildlife, permittees shall during the period:

(a) from April 1 through May 30, bypass a minimum of 20 cubic feet per second.

(b) from June 1 through November 1, bypass a minimum of 8 cubic feet per second.

The total stream flow shall be bypassed whenever it is less than the designated amount for that period.

No water shall be diverted under this permit until permittees have installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow required in these terms. Said measuring device shall be properly maintained.

In accordance with Section 1602-3 and/or 6,100 of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittees.

All Three Applications

6. Complete application of the water to the proposed us shall be made on or before December 1, 1984.

Dated: JUNE 21, 1979

/S/ W. DON MAUGHAN

W. Don Maughan, Chairman

/S/ WILLIAM J. MILLER

William J. Miller, Member

/S/ L. L. MITCHELL

L. L. Mitchell, Member

/S/ CARLA M. BARD

Carla M. Bard, Member